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SENATE

REPORT
101-93

# DISASTER ASSISTANCE ACT OF 1989

JULY 27 (legislative day, JANUARY 3), 1989.—Ordered to be printed

Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, submitted the following

## REPORT

together with

## ADDITIONAL VIEWS

[To accompany S. 1429]

The Committee on Agriculture, Nutrition, and Forestry reports an original bill S. 1429, and recommends that the bill do pass.

CONTENTS

| | Page |
|---|---|
| Brief Explanation | 1 |
| Background | 2 |
| Purpose and Need | 7 |
| Committee Consideration | 10 |
| Section-by-Section Analysis | 13 |
| Staff Cost Estimates | 28 |
| Regulatory Impact Evaluation | 28 |
| Changes in Existing Law | 33 |
| Additional Views | 30 |

### BRIEF EXPLANATION

The major provisions of the bill are briefly described below.

#### CROP ASSISTANCE

Under The Disaster Assistance Act of 1989 producers of 1989 crops that have suffered significant losses as a result of drought, freeze, storm, excessive moisture or related condition would receive disaster payments similar to those received under the 1988 disaster bill, but at somewhat lower levels.

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To qualify for assistance under the bill, a producer must have suffered a loss in production of over 40 percent. Producers would receive payments on the loss of production over 40 percent as follows:

For program crops, a rate of 65% of the target price or loan rate, as applicable; and

For soybeans and nonprogram crops, a rate of 65% of the average market price for the crops.

Producers who have a loss in production of over 75% will receive a payment of 80% of the target price, loan rate, or average market price, as applicable, on their losses that exceed 75% of their normal production.

Advance deficiency payment refunds would not be required of producers of program crops with respect to losses in production up to 40%. The Secretary would be required to provide full or advanced disaster payments to winter wheat producers within 15 days of application, if their application for assistance is received by USDA by September 30, 1989.

### PAYMENT LIMITATION

Disaster payments are limited to no more than $100,000 per person. Producers with gross revenues in excess of $2,000,000 annually would be ineligible for assistance.

### OTHER ASSISTANCE

The bill also provides assistance to producers of orchard crops who have lost their trees as a result of freeze. This assistance is limited to $25,000 per person.

The bill also contains other provisions designed to assist farmers and ranchers in dealing with the damaging weather they have experienced in 1989. These include provisions to make credit assistance (mainly in the form of loan guarantees) available, to provide water-related assistance to hard-hit drought areas, and to improve the operation of the Emergency Livestock Feed Assistance program.

The bill has several general provisions concerning the planting of alternative crops, advance deficiency payments for the 1988 crops, and administration of the peanut price support program.

## BACKGROUND

### INTRODUCTION

During the summer of 1988, the United States suffered one of the worst droughts in history. The 1988 drought was widespread, affecting major production regions of the United States. The winter of 1988/89 and the summer of 1989 have unfortunately found many of those same regions and some new ones devastated by destructive weather, including continued drought, freezes, and flooding.

This year's destructive weather has affected plant germination, as well as the ability of farmers to get their crops planted or harvested. While the 1988 drought also affected crops shortly after they were planted, the 1989 weather remained too wet and cool in the eastern corn belt for adequate germination.

The Joint Agriculture Weather Facility has determined that approximately half of the country is suffering from extreme, severe, or moderate long-term dryness or wetness in 1989. The Crop Production report of the Department of Agriculture and the National Agricultural Statistics Service stated on July 12 that "the spring of 1989 was noted for the unusual amount of severe weather."

The growing season for winter wheat in the state of Kansas was plagued by disaster during every phase of the growing season. The crop got off to a slow start in the fall due to inadequate moisture, which persisted through the growing season. Just as the wheat broke through the soil, temperatures in the state dropped 70 degrees in a 24 hour period in some areas of the state. Harvest of remaining wheat was severely impeded because of late spring rains.

Many important growing areas have been adversely affected by erratic weather, including early and late season freezes and enormous rainfalls. There are reports of some parts of Louisiana receiving 70 inches of rain in the past month, including 40 inches in one week alone.

Excessive moisture has inundated whole fields and caused heavy crop losses. Cotton, corn, and soybean planting got off to a late start in many areas because of excessive rain. At this time growth is below normal because of continued rain and flooding.

## *Program Crops*

### *Winter wheat*

The winter wheat crop in New Mexico, Texas, Oklahoma, Colorado, and Kansas suffered during the 1988–1989 growing season more seriously than ever before.

[In percent]

| | U.S. production 1987–88 | Winter wheat crop poor/very poor | | |
|---|---|---|---|---|
| | | June 25 | July 2 | July 9 |
| Colorado | 5 | 33 | 38 | 22 |
| Kansas | 22 | 73 | 80 | 80 |
| New Mexico | 1 | 90 | 93 | 95 |
| Oklahoma | 10 | 35 | 20 | 20 |
| Texas | 6 | 66 | 68 | 68 |

Winter wheat was planted last fall in land that had inadequate subsoil moisture due to drought conditions in 1988. The crop suffered from lack of moisture throughout the entire growing period, except for a short period in January when some rain and snow fell in eastern Texas and Oklahoma. However, winter wheat conditions in the central and southern Great Plains remained fair to poor with no snow cover and little or no rain.

Extremely cold weather came suddenly in early February and further stressed the major winter wheat production areas at a critical time, slowing plant growth and damaging portions of crops in the central and southern Great Plains.

Subsoil moisture remained far below adequate throughout the season. Because of the dry winter and the freeze, the large winter wheat crop in Kansas was indicated as poor to very poor.

Rain relieved some moisture stress in winter wheat production regions to the north later in the spring. By the end of April, winter wheat was reported as being in mostly fair to poor condition in the 20 major producing states.

Rain in the winter wheat growing areas in June came too late to provide much relief for the crops. The rain only delayed harvesting, and in some instances, made harvestng impossible.

With almost all of the winter wheat harvest in, the Department of Agriculture has predicted a final production of 1.462 billion bushels. For the state of Kansas, this represents a 36% loss in production from 1988. It appears that 1989 production will be more than 50% less than 1987 production.

*Spring wheat*

Spring wheat planting was slow this spring due to excessive moisture. In April and May, planted acres were 10 percent below normal in four of the five major producing states.

The crop condition is below normal in most areas because of unusual soil moisture conditions or holdover conditions from last year.

Recently, the condition of spring wheat in the Midwest has begun to decline rapidly due to extremely dry weather. As a result of last year's drought, the crop has very little subsoil moisture on which it needs to rely in dry weather. Although conditions do not compare to the damage of this time last year, a few more weeks of dry weather could significantly harm a large portion of this year's crop.

Production estimates from the Department of Agriculture's Crop Production Report for July show continued losses extended to this year's crop:

[Per 1,000 bushels]

| | 1987 | 1988 | 1989 [1] |
|---|---|---|---|
| Durum wheat: | | | |
| Minnesota | 1,218 | 840 | 1,160 |
| South Dakota | 3,024 | 816 | 2,880 |
| Other spring wheat: | | | |
| Nevada | 1,050 | 780 | 630 |
| South Dakota | 48,600 | 15,600 | 46,200 |
| Utah | 1,653 | 1,188 | 1,196 |
| Wisconsin | 924 | 152 | 418 |

[1] Indicated.

*Cotton*

Cotton planting was delayed or prevented in many areas because of excessive moisture. The July 1989 Crop Production Report estimates that planted area for the United States is expected to total 10.5 million acres, which is 16 percent lower than 1988.

Planted acreage was down 11 percent in the Southeastern States. The crop was rated on July 2 as mostly fair to good in that region.

The Delta states suffered severe rain, and in many areas, replanting was necessary. By July 2, this area has also been rated in fair to good condition.

The Southeastern Boll Weevil Eradication Program is experiencing substantially increased operational costs due to heavy insect infestations and ineffective spraying operations which are directly attributable to adverse weather conditions in Georgia, Alabama, and the Florida panhandle.

During the first few months of the 1989 crop year, additional expenses incurred due to weather related conditions are estimated to total approximately $4.0 million. Since producer assessments are fixed by referendum and the annual appropriation is based of budget projections prepared during early spring, the program will experience a significant funding shortage during late summer and early fall.

The Committee urges USDA-APHIS to extend all possible assistance to ensure continuation of the program, including waiving departmental overhead charges, which absorb 23 percent of appropriated funds, in order to make the total appropriated funds available for program operations during this critical period.

*Nonprogram crops*

The production of nonprogram crops is often concentrated in a small number of states. For example, 86% of all dry edible beans are produced in five states. 73% of all potatoes produced are grown in seven states. All hops grown in the U.S. are planted in four states. Over 77% of all fruits and edible tree nuts are produced in three states.

Heavy concentration of these crops in specific localities makes these areas particularly vulnerable to the effects of disastrous weather. This is especially true when one bad year follows another. In order to lessen the impact of the loss of income caused by disastrous weather, assistance is extended to producers of these crops.

The Committee includes nonprogram crops recognizing the importance of these crops to local economies and to the financial health of the producer. Under the Disaster Assistance Acts of 1986 and 1987, nonprogram crops were eligible for disaster assistance using the same formula for assistance as program crops.

Nonprogram crops are grown without the benefit of federal price support. A wide variety of tree fruit and vegetable crops have been damaged this year from freeze, flooding and drought. In Northern areas, unseasonably warm weather encouraged early blooming of fruit trees. This warm period was followed by a sudden, severe frost, which killed not only crops but trees as well.

Nationally, peach production was estamated in the July Crop Report at 2.33 billion pounds, 11 percent less than in 1988. In the south, many fo Georgia's peach producing areas are suffering heavy peach loss ranging from 35 to 100 percent. Early freeze damage along with excessive moisture and hail damage are the major cause of loss.

In Montana, 1,600 acres of cherry trees were killed due to devastating freeze.

A late Spring freeze in Arkansas wiped out that state's entire tomato crop. Although replanting occurred, 50% of the crop is in poor condition because of excessive flooding.

*Corn*

It has been estimated that this year 72.8 million of corn acreage will be planted for all purposes. This is up 8 percent from last year.

Drought: Planting is normal in the Northern Great Plains due to excessive dryness. Continued dryness could further decrease corn production because of inadequate subsoil moisture.

Excessive moisture: Planting of the 1989 corn crop was delayed in many areas, including the Delta, the eastern Corn Belt and the Southeast, due to excessive moisture. After June 7, the final recommended planting date for corn, producers began to plant soybeans on land they had intended to plant to corn. Through June, planting progress lagged well below normal in Indiana, Ohio, and Pennsylvania. In June, planting was more than 30 percent below normal in Ohio.

*Soybeans*

Since the beginning of their growing season, soybeans have been flooded in southern producing states. Louisiana, Mississippi, and Tennessee have suffered the most severe losses due to flooding.

Many producers have planted and replanted their soybean crops. In 1989, Arkansas has planted 34% of its soybean acreage following another crop, a 5% increase from 1988, and a 25% increase from 1985 plantings.

The July Crop Report puts total planted acreage for soybeans at 61.325 million acres, a significant drop from the planting intentions report of 62.240 million acres.

*Pasture conditions*

The pasture and range condition index on June 1, 1989 was 74 percent of normal, nine percent points below the 1978–1987 average. Because of the persistent drought in key grazing areas, the July crop report indicates 1989 pasture and range index at 77 percent, a fair to poor rating.

PASTURE AND RANGE FEED CONDITION: TROUBLE AREAS

| State | Average 1978–87 | 1988 | 1989 |
|---|---|---|---|
| Arizona | 75 | 80 | 54 |
| California | 88 | 68 | 79 |
| Colorado | 84 | 78 | 68 |
| Delaware | 82 | 63 | 75 |
| Illinois | 85 | 26 | 78 |
| Iowa | 87 | 27 | 62 |
| Kansas | 88 | 50 | 73 |
| Minnesota | 86 | 29 | 72 |
| Missouri | 85 | 25 | 78 |
| Nebraska | 87 | 58 | 43 |
| Nevada | 86 | 60 | 68 |
| New Mexico | 81 | 77 | 41 |
| North Dakota | 81 | 23 | 67 |
| South Dakota | 82 | 46 | 52 |

PASTURE AND RANGE FEED CONDITION: TROUBLE AREAS—Continued

| State | Average 1978–87 | 1988 | 1989 |
|---|---|---|---|
| Texas | 76 | 47 | 72 |
| Utah | 87 | 67 | 46 |
| Wisconsin | 85 | 29 | 79 |
| Wyoming | 87 | 58 | 71 |

Although conditions improved in 27 states from June to July, conditions in 15 states dropped and in 7 states were unchanged.

In July, Nebraska, Utah, and New Mexico reported that their pasture and range conditions were suffering severely due to drought. Several other states east of the Mississippi River reported fair to poor conditions.

The Department of Agriculture has implemented a number of emergency assistance programs for livestock products, including emergency water relief and haying and grazing of CRP acres.

## Purpose and Need

This bill is designed to provide equitable relief to as wide a spectrum of producers injured by this severe weather as is possible—given time and budgetary constraints.

The Committee notes its agreement with the Secretary of Agriculture that the nation cannot afford to run a two-track system of disaster indemnification—crop insurance supplemented by ad hoc disaster legislation. This legislation, like the Disaster Assistance Act of 1988, is primarily made necessary by the catastrophic nature of the 1988 drought and its lingering effects. However, it is the intent of the Committee to take up expeditiously the reform of the Federal Crop Insurance Program, giving due consideration to the recommendations of the National Commission for the Improvement of Federal Crop Insurance, so that this program will attract widespread participation and future disaster legislation will be unnecessary.

## DISASTER PAYMENTS TO PRODUCERS OF ANNUAL CROPS

Producers of program crops, particularly wheat, are being affected in two ways by the loss of production from the disaster. First, their crop yields have been diminished leaving them with less to sell in the marketplace. Second, the higher price brought on by tightened supplies will reduce any deficiency payments producers would have otherwise been eligible to receive.

Previous natural disasters have also affected crop production and producer income. In crop year 1974, 1975 and 1980, disaster payments made up all or nearly all of government payments to producers. As recently as the 1988 crop year, payments were made to crop producers for losses suffered due to natural disaster.

The 1988 Disaster Assistance Act provided for disaster payments to producers in a consistent and equitable manner to all crop producers based on 65 percent of producer price expectations at plant-

ing. Producers were required to demonstrate at least a 35 percent yield loss before being eligible for these payments.

The 1989 Disaster Assistance Act uses similar mechanisms. Payments are provided for producers of program crops who have suffered a minimum yield loss of 40 percent. Producers who did not participate in farm programs, as well as producers of nonprogram crops and soybeans, will be eligible for assistance if they suffered a production loss of over 45 percent.

Those who have lost 75 percent or more of their crop will receive an additional 15 percent payment on their losses over 75 percent.

Corn, sorghum, barley, oat, wheat, rice and cotton producers who participated in the government price support program will receive 65 percent of the target price for the respective commodity on all losses in excess of the 40 percent loss threshold.

In addition to disaster payments, these producers will not be required to repay unearned advance deficiency payments made with respect to any decrease in production (up to 40 percent) below the farm program payment yield for the crop. The remainder of any advance deficiency payment received would be subject to refund. In no case will a producer be allowed to receive deficiency and disaster payments on the same losses.

Producers of corn, sorghum, barley, oat, wheat, rice and cotton who did not participate in government price support programs will also be eligible to receive disaster payments based on 65 percent of the loan rate for the respective crop. The 45 percent yield loss trigger for receiving disaster payments will apply.

Those applying for disaster assistance who did not participate in the production adjustment program will not be eligible to receive payments on acreage planted or prevented planted in 1989 in excess of the greater of (1) the quantity actually planted for harvest in 1989, or (2) the quantity that was planted for harvest in 1988 (or prevented from being planted).

Peanuts, sugar and tobacco producers will also be eligible for assistance based on a payment rate of 65 percent of the loan or implied support level for each crop. A special payment rule is established for peanuts to account for quota and additional peanuts. As with other crop categories, the 40 percent loss threshold will apply.

Producers of sugar, peanuts, and tobacco applying for disaster assistance will not be eligible to receive payments on acreage planted or prevented planted in 1989 in excess of the greater of (1) the quantity actually planted for harvest in 1989, or (2) the quantity that was planted for harvest in 1988 (or prevented from being planted).

Soybeans and nonprogram commodities will also be provided disaster payments. For these crops the disaster payment rate shall be 65 percent of the five year moving average of market prices, adjusted by removing the high and low prices. Disaster program payment yields for these crops will be determined by the Secretary based on county, state or area yields. Where ASCS data is not available or is incomplete, the Secretary is directed to make use of other sources of yield data including Extension Service records. In areas where soybean yields have been reduced consistently over the past four years due to drought, the Secretary shall make appropriate adjustment.

The loss threshold for soybeans and nonprogram crops will be 45 percent. The limitation on the quantity of acreage eligible for payments that applied to peanuts, tobacco and sugar, will also apply to soybeans and other nonprogram crops.

Nonprogram crops include all commercial crops grown for harvest.

Producers who receive payments for any of the commodities discussed will be subject to a $100,000 payment limitation. Further, producers with gross revenues in excess of $2,000,000 will not be eligible for assistance.

## GENERAL PROVISIONS

*Credit assistance*

A disaster of the magnitude occurring in 1989 has the potential to economically devastate the farmers and rural areas directly affected by it. The disaster threatens the ability of farmers to meet their financial obligations in 1989. The disaster could reduce the expected gross revenues of many farming operations by 50 percent or more.

The continued economic viability of these farmers is crucial to the economic well being of the nation as a whole. It is desirable, therefore, that lenders practice forbearance with respect to farm loans made to farming operations that are suffering severe economic losses as a result of the 1989 disaster.

The provisions of the bill designed to provide credit relief to farmers in disaster areas encourage the Secretary of Agriculture and private lenders to use credit programs already authorized to help alleviate the sudden cash flow problem these farmers are facing.

Producers of orchard crops whose trees were destroyed due to the unusual freeze this summer will also be provided replanting assistance on losses exceeding 45 percent. This assistance shall consist of a 65 percent reimbursement of the cost of replanting the trees, or, at the Secretary's discretion, seedlings sufficient to reestablish the stand. No more than $25,000 in assistance shall be provided to any one individual under this provision.

*Conservation assistance*

Much of the grass planted to prevent soil erosion and sustain wildlife on acreage in the past 18 months that has been placed in the CRP has not yet developed root systems capable of withstanding the type of stress caused by the 1989 disaster.

Currently, farmers who cut hay during 1989 on acreage placed in the CRP to obtain feed for livestock are required to forego 50 percent of their 1989 annual rental payment. The bill would enable farmers to retain all or a portion of this 50 percent if the farmer performs, on a cost-share basis, certain conservation activities designed to enhance soil, water and wildlife conservation values on and in the vicinity of lands subject to such contract, in accordance with a conservation plan approved by the Soil Conservation Service.

## COMMITTEE CONSIDERATION

### HEARING

On July 13, 1989, the Committee on Agriculture, Nutrition and Forestry met to hear testimony on the subject of disaster assistance. Senators J. James Exon of Nebraska and John B. Breaux of Louisiana appeared and contributed statements, as did the Honorable Glen Browder, a representative in Congress from Alabama; the Honorable Mike Hayden, Governor, State of Kansas, Topeka, Kansas; the Honorable Jack C. Parnell, Deputy Secretary, United States Department of Agriculture, Washington, DC; Mr. Carl Fanning, extension soil specialist, North Dakota State University, Fargo, North Dakota; the Honorable Dale Cochran, Secretary of Agriculture, Iowa Department of Agriculture and Land Stewardship, Des Moines, Iowa; and Mr. Don Waller, President, Mississippi Farm Bureau, Oxford, Mississippi.

Senator Exon noted the damaging drought and flood conditions prevailing around the country, and expressed his appreciation of the committee's promise of prompt action in assuaging the damage done by this weather. Senator Exon stated that until improvements in the crop insurance system are made, it is essential to move forward with disaster legislation that covers both crops and livestock. Senator Exon recommended that the Department of Agriculture estimate the savings that will result from the rise in crop prices, in order to assist the committee in its budgetary deliberations, and commented that he looked forward to working with the committee to pass workable, helpful disaster legislation.

Senator Breaux reported that the State of Louisiana has received up to 60 inches of rain since January, resulting in loss of or damage to more than 2 million commodity acres, and a total loss in soybeans, cotton and rice of almost $200 million. Senator Breaux asked the committee to survey this damage and enact legislation accordingly, as well as to consider crop insurance legislation, and urged the committee to move swiftly in its deliberations.

Representative Browder stated that while last year the State of Alabama suffered from drought, this year extensive flooding has caused erosion, widespread crop damage and destruction. Representative Browder emphasized the importance of keeping farms in production by helping them to surmount such flood problems as oxygen and nutrient-deprived soil, dead root systems, stunted crops and soil too soft to till.

Governor Hayden of Kansas called upon the committee to extend the 1988 Drought Assistance Act to cover crops planted in 1988, but harvested in 1989. Governor Hayden pointed out that wheat farmers are still suffering from the ongoing drought that began in 1988, and should receive at least some compensation, which could be financed by the federal savings that will result from lowered deficiency payments this year. It is wheat farmers who have suffered the most drought damage in Kansas, Governor Hayden stated, citing an estimated total loss in gross state product of $1.6 billion.

Given the relatively optimistic forecasts for other crops, Governor Hayden asked the committee to give assistance to wheat farmers now. He added that livestock assistance is also needed because

the drought has necessitated drastic sell-offs, and concluded by saying that it is appropriate and responsible for the United States Senate and the Federal Government to implement an extension of the 1988 Drought Assistance Act based on savings from deficiency payments.

Deputy Secretary Parnell spoke on behalf of the Secretary of Agriculture, and prefaced his comments by indicating that the Secretary is empathetic to the needs of farmers who have been affected by damaging weather conditions. Mr. Parnell stated that administrative actions have been taken to aid livestock producers, and that the Department of Agriculture does not support new legislation to assist livestock producers, though the Administration remains open to discussion of this issue.

The Department expressed willingness to address all available options in the consideration of disaster assistance legislation. The Secretary does feel that in considering the upcoming 1990 Farm Bill, Congress must either provide crop insurance and abandon ad hoc disaster relief, or abandon crop insurance and provide ad hoc relief as needed. Mr. Parnell stated that farmers and ranchers should be expected to assume some of the risk associated with their operations, which could be done through the purchase of insurance or other means rather than by taxpayers through ad hoc disaster assistance.

Since it seems clear that drought damage this year is part of last year's national disaster, the administration would support a bill to provide assistance to 1989 crops, but Mr. Parnell pointed out that funding for disaster assistance is a challenge to both Congress and the Administration. A broader multi-peril disaster relief program such as that passed by the House would dramatically reduce the amount of relief to producers who have already suffered documented losses.

Mr. Parnell charged that ad hoc disaster legislation undermines crop insurance programs by bailing out those who are not insured, and warned that this is the last time that the administration will simultaneously support both approaches to covering weather risks. Mr. Parnell called for a 1990 farm bill under which one of these approaches would be abandoned exclusively in favor of the other. In conclusion, Mr. Parnell stated that the administration does not believe that taxpayers should cover the risks associated with random local annual yield variations unless it is catastrophic in nature and unless it has some national impact.

Mr. Fanning reviewed crop and livestock losses in North Dakota, which have included spring wheat, durum and barley. Large portions of the state have suffered losses ranging from 50 to 80 percent of expected yields. Two thirds of the state lacks sufficient subsoil moisture to sustain crops, and the remaining third needs average or better than average rainfall to bring its crops to maturity. Mr. Fanning said that the situation for livestock producers is equally grave. Pastures in large sections of the state are gone. Reserve hay stacks were depleted last year. Hay production will be limited this year. He concluded by emphasizing the individual suffering of growers affected by the drought in North Dakota.

Secretary Cochran noted that Iowa has lost the vast majority of its subsoil moisture reserves during the last two years of consecu-

tive drought. Consequently farmers are facing crop damage at least as extensive as that of last year. Water shortage is a crucial problem in Iowa for both humans and livestock. This has led to the culling of cattle herds at a time when the state was beginning to regain its prominence as a leading cattle producer. Six counties in Iowa have been declared disaster areas because of water shortages, and are being supplied water by the National Guard.

Secretary Cochran praised the 1988 drought assistance provided by Congress as aid that was critical to the survival of many farms. He urged the Committee to extend the 1988 programs to the 1989 crop in order to provide farmers with financial safety. Secretary Cochran, however, proposed modifications to the 1988 programs. First, he suggested that farmers be compensated for long-term losses that result from the current drought, not just for immediate losses. Second, he requested legislation be enacted to upgrade rural water systems to minimize hardship during future drought cycles. Secretary Cochran concluded by emphasizing the current drought, which threatens to repeat the damage suffered in 1988, must be met by an extension of the 1988 disaster assistance legislation.

Mr. Waller spoke on behalf of the Mississippi Farm Bureau and the American Farm Bureau, describing the current flood damage to Mississippi crops. Over 200,000 acres are under water in Mississippi. Many more hundreds of thousands of acres are saturated to the point that they can support neither cotton nor soybeans. Crops have been replanted in the wake of rainfall that has totaled 5 to 20 inches above normal. Continuing rainfall threatens to destroy even replanted crops.

Mr. Waller concluded by reporting that the American Farm Bureau Federation Board of Directors passed a resolution calling for support of House Bill H.R. 2467, noting that this demonstrated the American Farm Bureau's cognizance of the damage American agriculture has suffered and is suffering from destructive weather conditions.

## MARKUPS

The Committee met on July 20, 1989, to mark up an original Committee proposal offered by Chairman Leahy. The Committee debated a Lugar amendment to extend assistance only to those producers of program crops who participated in 1989 farm programs. The amendment was further amended by Senator Cochran to extend payments to producers of nonprogram crops and soybeans if there were funds available at a later date. The Lugar-Cochran amendment was defeated by a vote of 9–10. The Committee recessed until Tuesday, July 25.

The Committee met again on July 25, 1989, to continue debate on the original Committee proposal. Senator Lugar offered a substitute which guaranteed assistance to producers of wheat, feed grains, cotton, rice, and soybeans, and provided assistance to other producers, contingent on funds becoming available through a mandated re-estimate in October of agricultural spending or through additional legislated cuts in spending. Senator Boren then offered a substitute to the Lugar proposal which was adopted by a vote of

10-9. The Committee proposal was then ordered favorably reported by voice vote.

## SECTION-BY-SECTION ANALYSIS

## TITLE I—EMERGENCY CROP LOSS ASSISTANCE

### SUBTITLE A—ANNUAL CROPS

*Section 101. Payments to program participants for target price commodities*

*Disaster payments*

Subsection (a) would provide that, with respect to producers of the 1989 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, who participated in 1989 production adjustment programs, if the Secretary of Agriculture determines that, because of excess moisture, freeze, storm, or related condition occurring in 1989 or drought or related condition occurring in 1988 or 1989, the producers suffer over a 40 percent loss in production, the Secretary shall make disaster payments available to such producers.

The loss in production will be determined by comparing 1989 production to historical yields. If 1989 production is less than 60 percent of the result of multiplying the farm program payment yield established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage prevented from being planted (because of a natural disaster, as determined by the Secretary) for such crop, the producers will receive disaster payments at a rate equal to—

(A) 65 percent of the established price for the crop for any deficiency in production greater than 40 percent, but not greater than 75 percent, for the crop; and

(B) 80 percent of the established price for the crop for any deficiency in production greater than 75 percent for the crop.

Disaster payments may not be made available to producers on a farm with respect to any acreage in excess of the permitted acreage for the farm for the commodity. The total quantity of a crop of a commodity on which deficiency payments otherwise would be payable to producers on a farm shall be reduced by the quantity on which a payment is made to the producers for the crop under this Act.

*Advance deficiency payments*

Subsection (b) provides that with respect to the 1989 crops of wheat, feed grains, upland cotton, extra long staple cotton, and rice, producers who harvest less than 100 percent of their farm program payment yield because of a disaster covered by this Act, will not be required to repay any advance deficiency payments made with respect to any portion of such deficiency in production up to 40 percent of the producers' farm program payment yield. The remainder of any advance deficiency payment received would be subject to refund.

Producers who were eligible to receive advance deficiency payments for the 1989 crops, but who did not do so, shall be given the

opportunity to elect to receive them for the 1989 crops as soon after the date of enactment of the bill as possible. Producers in 0/92 because of the disaster shall be allowed to elect between that program and disaster payments under this Act.

*Section 102. Payments to program nonparticipants for target price commodities*

*Disaster payments*

Subsection (a) would provide that, with respect to producers of the 1989 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, who elected not to participate in 1989 production adjustment programs, if the Secretary of Agriculture determines that, because of excess moisture, freeze, storm, or related condition occurring in 1989 or drought or related condition occurring in 1988 or 1989, the producers suffer over a 45 percent loss in production, the Secretary shall make disaster payments available to such producers.

The loss of production will be determined by comparing 1989 production to county average yields. If 1989 production is less than 55 percent of the result of multiplying the county average yield established by the Secretary for such crop by the sum of the average planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop, the producers will receive disaster payments at a rate equal to—

(A) 65 percent of the basic country loan rate (or a comparable price if there is no current basic county loan rate) for the crop for any deficiency in production greater than 45 percent, but not greater than 75 percent, for the crop; and

(B) 80 percent of the basic county loan rate (or a comparable price if there is no current basic county loan rate) for the crop, for any deficiency in production greater than 75 percent for the crop.

*Limitations*

Subsection (b) provides that the Secretary shall provide prevented planting credit with respect to acreage that producers on a farm were prevented from planting because of excess moisture, freeze, storm, or related condition occurring in 1989 or drought or related condition occurring in 1988 or 1989, as determined by the Secretary. However, prevented planting credit shall not be made available on any acreage in excess of the greater of—

(A) the amount of acreage planted (or prevented from being planted because of natural disaster) to the commodity on the farm in 1988 less acreage actually planted in 1989; or

(B) the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1986, 1987, and 1988 minus acreage actually planted to the commodity for harvest in 1989.

The Secretary shall make appropriate adjustments in this limitation to take into account rotation practices of the producers.

Section 103. Peanuts, sugar, and tobacco

*Disaster payments*

Subsection (a) provides that, with respect to producers of the 1989 crops of sugar beets, sugarcane, tobacco and peanuts, if the Secretary determines that, because of excess moisture, freeze, storm, or related condition occurring in 1989 or drought or related condition occurring in 1988 or 1989, the producers suffer over a 40 percent loss in production, the Secretary shall make disaster payments available to such producers.

The loss in production will be determined by comparing 1989 production to county average yields (or program yield in the case of peanuts). If 1989 production is less than 60 percent of the result of multiplying the county average yield established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop, the producers will receive disaster payments at a rate equal to—

(A) 65 percent of the applicable payment level for the crop for any deficiency in production greater than 40 percent, but not greater than 75 percent, for the crop; and

(B) 80 percent of the applicable payment level for the crop, for any deficiency in production greater than 75 percent for the crop.

The payment level for each of these commodities shall be as follows:

(A) for peanuts, the price support level for quota peanuts or the price support level for additional peanuts, as applicable;

(B) for tobacco, the national average loan rate for the type of tobacco involved, or (if there is none) the market price, as determined under section 104(a)(2); and

(C) for sugar beets and sugarcane, a level determined by the Secretary to be fair and reasonable in relation to the level of price support established for the 1989 crops of sugar beets and sugarcane, and that, insofar as is practicable, shall reflect no less return to the producer than under the 1989 price support levels.

*Limitations*

Subsection (b) provides that the Secretary shall provide prevented planting credit with respect to acreage that producers on a farm were prevented from planting because of excess moisture, freeze, storm, or related condition occurring in 1989 or drought or related condition occurring in 1988 or 1989, as determined by the Secretary. However, prevented planting credit shall not be made available on any acreage in excess of the greater of—

(A) the amount of acreage planted (or prevented from being planted because of natural disaster) to the commodity on the farm in 1988 less acreage actually planted in 1989; or

(B) the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1986, 1987, and 1988 minus acreage actually planted to the commodity for harvest in 1989.

The Secretary shall make appropriate adjustments in this limitation to take into account rotation practices of the producers and any changes in quotas for the 1989 crops of tobacco.

*Special rules for peanuts*

Subsection (c) sets forth certain special rules for peanuts as follows:

(1) a deficiency in production of quota peanuts from a farm as otherwise determined under this section shall be reduced by the quantity of peanut poundage quota that was the basis of such anticipated production that has been transferred from the farm;

(2) payments made under this provision shall be taken into account whether the deficiency for which the deficiency in production is claimed was a deficiency in production of quota or additional peanuts and the payment rate shall be established accordingly; and

(3) the amount of undermarketings of quota peanuts from a farm for the 1989 crop that may otherwise be claimed under section 358 of the Agricultural Adjustment Act of 1938 for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of such peanuts for which payment has been received under this section.

It is the intent of the Committee that, in the case of peanuts, the Secretary determine the 1989 program yield in accordance with the rules codified at 7 C.F.R. Part 729.

*Special rules for tobacco*

Subsection (d) provides that the quantity of undermarketings of quota tobacco from a farm for the 1989 crop that may otherwise be claimed under section 317 or 319 of the Agricultural Adjustment Act of 1938 for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of such tobacco for which payment has been received under this section.

It is also provided that disaster payments made to tobacco producers under this section may not be considered by the Secretary in determining the net losses of the Commodity Credit Corporation under section 106A(d) of the Agricultural Act of 1949.

*Section 204. Soybeans and nonprogram crops*

*Disaster payments*

Subsection (a) provides that, with respect to the 1989 crop soybeans and nonprogram crops, if the Secretary of Agriculture determines that, because of excess moisture, freeze, storm, or related condition occurring in 1989 or drought or related condition occurring in 1988 or 1989, producers suffer over a 45 percent loss in production, the Secretary shall make disaster payments available to such producers.

The loss in production will be determined by comparing 1989 production to historical yields. In the case of soybeans, the historical yield will be established using the State, area, or county yield, adjusted for adverse weather conditions during the 1986, 1987, and 1988 crop years. In the case of other nonprogram crops, the histori-

cal yield will be established by the Commodity Credit Corporation. With respect to crops covered in section 201(b) of the Agricultural Act of 1949, the historical yield will be based on the historical annual yield of the producers for such crop, as determined by the Secretary.

If 1989 production is less than 55 percent of the result of multiplying the historical yield established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop, the producers will receive disaster payments at a rate equal to—

(A) 65 percent of the applicable payment level for the crop for any deficiency in production greater than 45 percent, but not greater than 75 percent, for the crop; and

(B) 80 percent of the applicable payment level for the crop, for any deficiency in production greater than 75 percent for the crop.

If the producers of a nonprogram crop can provide satisfactory evidence to the Commodity Credit Corporation of actual crop yields on the farm for at least 1 of the immediately preceding 3 crop years, the yield for a farm shall be based on proven yields. If such data do not exist, the Commodity Credit Corporation shall establish a yield for the farm by using a county average yield for the commodity, or by using other data available to it.

In establishing county average yields for nonprogram crops, the Commodity Credit Corporation is instructed to use the best available information concerning yields. Such information may include extension service records, credible nongovernmental studies, and yields in similar counties.

*Payment level*

The payment level for a commodity covered by this section shall equal the simple average price received by producers of the commodity, as determined by the Secretary during the marketing years for the immediately preceding 5 crops of the commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.

The Secretary shall make disaster payments on a crop by crop basis, with consideration given to markets and uses of the crops, under regulations issued by the Secretary. For purposes of determining the payment levels on a crop by crop basis, the Secretary shall consider as separate crops, and develop separate payment levels, insofar as is practicable, for different varieties of the same commodity, and commodities for which there is a significant difference in the economic value in the market.

*Limitations*

Subsection (b) provides that the Secretary shall provide prevented planting credit with respect to acreage that producers on a farm were prevented from planting because of excess moisture, freeze, storm, or related condition occurring in 1989 or drought or related contition occurring in 1988 or 1989, as determined by the Secretary. However, prevented planting credit shall not be made available on any acreage in excess of the greater of—

(A) the amount of acreage planted (or prevented from being planted because of natural disaster) to the commodity on the farm in 1988 less acreage actually planted for harvest in 1989; or

(B) the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1986, 1987, and 1988 minus acreage actually planted to the commodity for harvest in 1989.

The Secretary shall make appropriate adjustments in this limitation to take into account rotation practices of the producers.

*Definitions*

Subsection (d) sets forth the definition of "nonprogram crop" as follows:

(1) all crops insured directly or indirectly by the Federal Crop Insurance Corporation for crop year 1989; and

(2) other commercial crops for which Federal Crop Insurance is not available for crop year 1989.

Nonprogram crop does not include a crop covered in sections 101 through 103 of the bill or soybeans.

*Section 105. Crop quality reduction disaster payments*

The bill provides that the Secretary of Agriculture may make additional disaster payments to producers of crops covered under sections 101 through 104 who suffer losses resulting from the reduced quality of such crops caused by excess moisture, freeze, storm, or related condition occurring in 1989 or drought or related condition occurring in 1988 or 1989, as determined by the Secretary.

The reduced quality disaster payments would be available only if such producers incur a deficiency in production of not less than 45 percent and not more than 75 percent for such crop (as determined under section 101, 102, 103, or 104, as appropriate).

The Secretary shall establish the reduced quality disaster payment rate, except that such rate shall not exceed 10 percent, as determined by the Secretary, of—

(1) the established price for the crop, for commodities covered under section 101;

(2) the basic county loan rate for the crop (or a comparable price if there is no current basic county loan rate), for commodities covered under section 102;

(3) the payment level under section 103(a)(3), for commodities covered by section 103; and

(4) the payment level under section 104(a)(2), for commodities covered under section 104.

A reduced quality disaster payment may only be made on the portion of the actual harvested crop on the producer's farm that is reduced in quality by such natural disaster in 1988 or 1989, as determined by the Secretary.

*Section 106. Effect of Federal Crop Insurance payments*

This section ensures that producers who participated in the Federal Crop Insurance program do not receive a windfall of federal payments. The Secretary of Agriculture is required to reduce the

amount of disaster payments made available under this subtitle to producers who have crop insurance for such crop.

Disaster payments made to such producers would be reduced to the extent the amount determined by adding the total amount of crop insurance indemnity payments (gross indemnity less premium paid) received by the producer for the loss of production of the crop of a commodity on the farm and the disaster payment made available for the commodity exceeds the amount determined by multiplying—

(1) 100 percent of the commodity yield used for the calculation of payments made under this subtitle; by

(2) the sum of the acreage of each such crop planted to harvest and the acreage for which prevented planted credit is approved by the Secretary; by

(3) with respect to—

(i) Producers who participated in the production adjustment programs for wheat, feed grains, upland cotton, extra long staple cotton, and rice, the established price for the 1989 crops of such commodities;

(ii) Producers who did not participate in production adjustment programs for wheat, feed grains, upland cotton, extra long staple cotton, and rice, and producers of sugarcane, sugar beets, peanuts, and tobacco, the loan level established for the 1989 crops of such commodities; and

(iii) Producers of soybeans and any nonprogram crop, the average market price received by producers of such crops in 3 out of the last 5 years, dropping the high and low years.

*Section 107. Crops harvested for forage uses*

The bill provides that not later than 15 days after the date of the enactment of this Act, the Secretary of Agriculture shall announce the terms and conditions by which producers on a farm may establish a 1989 yield with respect to crops that will be harvested for silage and other forage uses.

*Section 108. Payment limitations*

Subsection (a) provides that the total amount of payments that a person shall be entitled to receive under one or more of the programs established under this subtitle may not exceed $100,000.

Subsection (b) provides that no person may receive disaster payments under this subtitle to the extent that such person receives a livestock emergency benefit for lost feed production in 1989 under section 606 of the Agricultural Act of 1949.

The bill also establishes a combined limitation on payments received under this subtitle and under emergency livestock feeding programs. Producers are limited to $100,000 of combined benefits. Producers may choose whether to receive the $100,000 in disaster payments under this subtitle, or livestock emergency benefits (not to exceed $50,000), or a combination of payments and benefits specified by the person.

Subsection (d) requires the Secretary of Agriculture to issue regulations defining the term "person" for the purposes of this section and 141 of the bill, which shall conform, to the extent practicable,

to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985 and the Disaster Assistance Act of 1988; and prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitations established under this section.

*Section 109. No double payments on replanted acreage*

The bill provides that the Secretary of Agriculture shall reduce disaster payments to be made to a producer under the bill by an amount that reflects the value of any crop the producers plant for harvest in 1989 to replace the crop for which disaster payments are received.

The Secretary shall determine the value of the second crop based on the actual yield of the producers and average market prices for the second crop during a representative period and shall take into account the historical cropping patterns of producers.

The Committee notes that in some cases, producers have replanted spring varieties of crops (such as white wheat) after the failure of a winter variety due to adverse weather. In such cases, the Secretary is to follow the traditional practice of calculating a producer's loss, if any, based on the yield of the originally-planted winter variety.

SUBTITLE B—ORCHARDS

*Section 121. Eligiblity*

Subsection (a) provides that the Secretary of Agriculture shall provide disaster assistance to eligible orchardists that planted trees for commercial purposes but lost such trees as a result of freeze or related conditions in 1989. An orchardist shall quality for assistance under this subtitle only if such orchardist's tree mortality, as a result of the natural disaster, exceeds 45 percent (adjusted for normal mortality).

*Section 122. Assistance*

The disaster assistance to eligible orchardists shall consist of either—

(1) reimbursement of 65 percent of the cost of replanting trees lost due to freeze or related condition in 1989 in excess of 45 percent mortality (adjusted for normal mortality); or

(2) at the discretion of the Secretary, the provision of sufficient seedlings to reestablish the stand.

*Section 123. Limitation on assistance*

A person may not receive over $25,000, or an equivalent value in tree seedlings, under this subtitle. The Secretary of Agriculture shall issue regulations:

(1) defining the term "person" for the purposes of this subtitle, which shall conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985; and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

*Section 124. Definition*

The term "eligible orchardist" is defined as a person who produces annual crops from trees for commercial purposes and owns 500 acres or less of such trees.

*Section 125. Duplicative payments*

The bill requires the Secretary of Agriculture to establish guidelines to ensure that no person receives duplicative payments under this subtitle and the forestry incentives program, agricultural conservation program, or other existing Federal program.

*Section 126. Sense of Congress on crop insurance for orchard crops*

The bill provides that it is the sense of Congress that the Secretary of Agriculture should expeditiously expand the availability of multiperil crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) to all orchard crops.

SUBTITLE C—ADDITIONAL ASSISTANCE

*Section 131. New conservation measures*

Subsection (a) provides that, in the case of an owner or operator of land who has entered into a conservation reserve program contract and hays or grazes livestock during the 1989 crop year on acreage subject to such contract as authorized by the Secretary of Agriculture, the Secretary may not reduce the amount of rental payments made to such owner or operator as the result of such haying or grazing to the extent that the owner or operator—

(A) carries out additional conservation practices, approved by the Soil Conservation Service in consultation with appropriate Federal and State agencies, to enhance soil, water, and wildlife conservation on or in the vicinity of lands subject to such contract; and

(B) pays the costs of carrying out such practices.

The amount of the reduction prohibited under this section shall equal one-half of the amount paid by the owner or operator to cover the costs of carrying out the conservation practices. The conservation practices covered by this provision include:

(1) the establishment of permanent shelterbelts and windbreaks;

(2) the restoration of wetlands;

(3) the establishment of wildlife food plots; or

(4) the planting of trees.

SUBTITLE D—ADMINISTRATIVE PROVISIONS

*Section 141. Ineligibility*

The bill will exclude any person who has qualifying gross revenues in excess of $2,000,000 annually, as determined by the Secretary of Agriculture, from receiving any disaster payment or other benefits under this title.

"Qualifying gross revenues" is defined as the gross revenue from the person's farming, ranching, and forestry operations if a majority of the person's annual income is received from farming, ranching, and forestry operations, or the person's gross revenue from all

sources is less than a majority of the person's annual income is received from farming, ranching, and forestry operations.

*Section 142. Timing and manner of assistance*

The bill provides that the Secretary of Agriculture shall make full disaster assistance available as soon as practicable after the date of enactment of this Act. However, no payment or benefit provided under this title shall be payable or due until such time as a completed application for a crop of a commodity therefore has been approved.

The Committee was concerned that many farmers who will be planting the 1990 crop of winter wheat in September could be short of funds. Therefore, the bill provides for early, advance disaster payments for producers who have harvested their 1989 crops, if the following requirements are met:

(1) the producer completes an approved disaster payment application; and

(2) the producer submits that application to the local ASCS office anytime prior to September 30, 1989.

The Secretary would then be required to make full or advanced disaster payments to such producers within 15 days after the application is received or by September 15, 1989, whichever is later.

If the Secretary makes advance payments to such producers the amount of the advance shall not be less than 80 percent of the payments that will be made available to such producers under subtitle A.

If the producer is later determined to be ineligible for all or a portion of the advance, it would have to be repaid.

A person eligible to receive any disaster payments under this subtitle A shall make application for such payments not later than March 31, 1990, or such later date that the Secretary, by regulation, may prescribe.

The Secretary may make payments available under subtitle A in the form of cash, commodities, or commodity certificates, as determined by the Secretary.

*Section 143. Commodity Credit Corporation*

The bill provides that the Secretary of Agriculture shall use the funds, facilities, and authorities of the Commodity Credit Corporation in carrying out this title.

*Section 144. Regulations*

The bill requires that regulations to implement this title be issued as soon as practicable after the date of enactment of this Act, without regard to the requirement for notice and public participation in rule making prescribed in section 553 of title 5, United States Code, or in any directive of the Secretary of Agriculture.

## TITLE II—EMERGENCY LIVESTOCK ASSISTANCE

This section amends the emergency livestock assistance provisions of the Agricultural Act of 1949 to provide that the Secretary of Agriculture, in making feed grain assistance available to livestock producers, shall, at the option of the livestock producer, pro-

vide for the furnishing of the feed grain through the use of feed grain stored on the farm of the producer that has been pledged as collateral for a price support loan.

*Changes in the Livestock Feed Program and assistance for Indian livestock producers*

The language in the bill regarding the Livestock Feed Program provides the Secretary with the necessary authority to provide for the utilization by livestock producers of on farm grain under loan in the Livestock Feed Program. It is the sense of the Committee that this is the only legislative language necessary to implement the agreement reached between the Committee and the Administration regarding a number of changes in the Livestock Feed Program.

The Committee understand that, in addition to implementing the foregoing provision, the Administration will also increase the daily feed allowance in the Livestock Feed Program from 10 pounds of feed grain equivalent per day per animal unit to 12.5 pounds of feed grain equivalent per day per animal unit, eliminate proceeds from crop insurance from the calculation of feed on hand, and also not count pasture as feed on hand for livestock, such as swine, that can not utilize pasture.

It is the sense of the Committee that the Administration should continue to make every effort to see that joint participation in the Livestock Feed Program with the Indian Acute Distress Donation Program by eligible Indian livestock producers is made effective as soon as possible. It is the sense of the Committee that the Department of Agriculture should, as soon as possible, incorporate the new daily feed allowances cited above into the original proposed rule published in the Federal Register on Friday, May 19, 1989. Under the new daily feed allowances, eligible Indian livestock producers who receive assistance under the Indian Acute Distress Donation Program could be eligible for a daily allowance of 8.5 pounds of feed grain equivalent per day per animal unit under the Livestock Feed Program.

In order to allow for adequate public comment, it is the sense of the Committee that the original comment period on the May 19, 1989 Notice could be extended by an additional two weeks to August 31, 1989, to provide sufficient time for comment on this change. It is further the sense of the Committee, that the Department of Agriculture should, as soon as is practicable after the end of this comment period, issue a Final Rule, to be effective immediately upon publication, allowing for joint participation in the Livestock Feed Program and the Indian Acute Distress Donation Program by eligible Indian livestock producers under the revised daily feed allowances.

*Crop losses due to grasshopper damage*

It is the sense of the Committee that, as a result of this year's drought, there has been a considerable increase in grasshopper populations in the Northern Great Plains states. Furthermore, these infestations have resulted in severe damage and destruction of crop and pasture in these states. Therefore, it is the sense of the committee that crop and hay losses sustained as a result of such

damage and destruction be considered a drought related loss and thereby be considered eligible for assistance under this bill

The Committee directs APHIS to cooperate in local cost sharing on other than rangeland if such action will assist in the overall goals of a grasshopper control program.

## TITLE III—DISASTER CREDIT AND FORBEARANCE

*Section 301. Emergency loans*

This section provides that section 321(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(b)) shall not apply to a person who otherwise would be eligible for an emergency loan under subtitle C of that Act, if such eligibility is the result of damage to an annual crop planted for harvest in 1989.

*Section 302. 1990 Farm operating loans*

*Direct loans*

Subsection (a) provides that the Secretary of Agriculture shall ensure, to the maximum extent practicable, that direct operating loans made or insured by the Farmers Home Administration for 1990 crop production are made available to farmers suffering major loses due to damaging weather in 1989, as authorized in existing law, to help such farmers stay in business.

*Guaranteed loans*

Subsection (b) provides that the Secretary shall make available in fiscal year 1990 guarantees for operating loans as authorized under subtitle B of the Consolidated Farm and Rural Development Act to commercial or cooperative lenders, in addition to the other purposes for which guarantees may be provided for such loans, to refinance and reamortize 1989 operating debt of farmers and ranchers that otherwise cannot be repaid due to major losses incurred by such farmers or ranchers as a result of the damaging weather in 1989.

Each such guaranteed loan shall contain terms and conditions governing reamortization, with respect to the operating debt of the farmer or rancher, that will provide the farmer or rancher a reasonable opportunity to continue to receive new operating credit, while repaying the guaranteed loan, as determined by the Secretary.

## TITLE IV—RURAL BUSINESSES

*Section 401. Business and industrial loans*

*Disaster assistance for rural business enterprises*

Subsection (a) provides that the Secretary of Agriculture shall guarantee loans made in rural areas to—

(1) public, private, or cooperative organizations, to Indian tribes on Federal and State reservations or other Federally recognized Indian tribal groups, or to any other business entities to assist such organizations, tribes, or entities in alleviating the distress caused to such organizations, tribes, or entities, di-

rectly or indirectly, by the drought, hail, freeze, storm, excessive moisture, or related condition in 1988 or 1989; and

(2) such organizations, tribes, or entities that refinance or restructure debt as a result of losses incurred, directly or indirectly, because of such natural disasters in 1988 or 1989.

Subsection (b) provides that loans guaranteed under this section shall be loans made by any Federal or State chartered bank, savings and loan association, cooperative lending agency, insurance company, or other legally organized lending agency.

Guarantees under this section are limited to no more than 90 percent of the principal and interest amount of the loan $500,000, whichever is the lesser amount.

The total amount of any loan guarantee made under this section shall not exceed $200,000,000.

Subsection (d) requires the Secretary to use the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act for the purpose of discharging the obligations of the Secretary under this section.

*Disaster loan availability for agriculture related businesses*

As a result of last year's drought it has come to the attention of the Committee that many farm related businesses, such as certain small feed-lot operations, were deemed to be ineligible for assistance under either the disaster loan provisions administered by the Department of Agriculture or those administered by other federal agencies.

In most cases these businesses are also unable to find credit from private lenders. Therefore, it is the sense of the Committee that the Farmers Home Administration should make every effort to make farm related businesses, that are ineligible for other federal disaster loan programs, eligible for disaster loans when these businesses have suffered drought related losses.

## TITLE V—WATER-RELATED ASSISTANCE

*Section 501. Emergency Community Water Assistance Grant Program*

The bill would amend substitle A of the Consoldated Farm and Rural Development Act to add a new section providing for an emergency community water assistance grant program.

The Amendment provides that the Secretary shall provide grants in accordance with this section to assist the residents of rural areas and small communities to secure adequate quantities of safe water.

The Secretary shall make these grants available, not exceeding $500,000, whenever there has been significant decline in the quanity or quality of water available from the water supplies of such rural areas and small communities or grants not exceeding $75,000 for repairs, partial replacement, or significant maintenance efforts on established water systems.

These grants can not be issued unless they will remedy an acute shortage of quality water; or a significant decline in the quantity or quality of water that is available. To be eligible to obtain a grant under this provision, applicants must be a public or private nonprofit entity; and in the case of a grant made because of a de-

cline in water supplies the applicant must demonstrate to the Secretary that the decline occurred within 2 years of the date the application was filed for grant.

Subsection (d) of the amendment provides that grants made under this section may be used for waterline extensions from existing systems, laying of new waterlines, repairs, significant maintenance, digging of new wells, equipment replacement, hook and tap fees, and any other appropriate purpose associated with developing sources of, or treating, storing, or distributing water, and to assist communities in complying with the requirements of the Federal Water Pollution Control Act or the Safe Drinking Water Act.

No grant provided under this provision may be used to assist any rural area or community that includes any area in any city or town with a population in excess of 5,000 inhabitants according to the most recent decennial census of the United States has a median household income in excess of the State nonmetropolitan median household income according to the most recent decennial census of the United States.

This section also provides that not less than 75 percent of the funds allocated shall be allocated to rural communities with populations that do not exceed 3,000 inhabitants.

Grants under this section shall be made in an amount equal to 100 percent of the costs of the projects conducted under this section.

The Secretary shall develop a nationally competitive application process to award grants under this section. The process shall include criteria for evaluating applications, including population, median household income, and the severity of the decline in quantity or quality of water.

The Secretary shall make every effort to review and act on applications within 60 days of the date that such applications are submitted.

There are authorized to be appropriated to carry out this section, $35,000,000 for fiscal year 1990, and $10,000,000 for fiscal year 1991, such sums to remain authorized until fully appropriated.

*Section 502. Livestock water assistance*

Section 502 amends the Emergency Conservation Program to clarify the Secretary's authority to provide emergency water assistance to producers of confined livestock. The Committee understands that any new assistance provided due to this clarification shall be extended according to the current requirements of the program; assistance will not be extended for recreational animals; and the allowed measures shall be least-cost and as temporary in nature as is practical and useful. It is also the Committee's understanding that assistance will be limited to small and medium sized confined livestock enterprises with gross revenues reaching a maximum of $500,000.

*Section 503. Disaster assistance for water protection activities*

This section would amend title IV of the Disaster Assistance Act of 1988 to authorize the Secretary of Agriculture to provide disaster relief to repair damage caused by storms occurring in 1988 or 1989 watersheds located in any county in any State that has suf-

fered significant damage to watersheds. This releif should be provided in areas such as Yazoo, Hinds, Coahoma, Tate, Lee, Newton, Lowndes, Prentiss, and Rankin counties in Mississippi that have been particularly hard hit by floods in 1989. The assistance provided for by this section includes both financial and technical assistance and must be provided in a manner consistent with similar assistance authorized under section 403 of the Agricultural Credit Act of 1978.

There are authorized to be appropriated for fiscal year 1990 $25,000,000 to carry out this section. In addition, the Secretary of Agriculture may use the facilities, services, authorities, and funds of the Commodity Credit Corporation to carry out this provision.

## TITLE VI—GENERAL PROVISIONS

*Sec. 601. Shrinkage allowance for peanuts*

Section 704 of the Food Security Act of 1985 has been amended by adding a paragraph to make it clear that shrinkage applied to export obligation for handlers for contract additional peanuts of non-physical supervision reflects the actual shrinkage incurred by such handlers. This amendment makes it clear that the shrink should be at least 4.5%. The shrinkage may be greater should the Secretary so determine and it could be less for certain handlers who do not comply with certain quality standards prescribed by the Secretary.

Handlers under non-physical supervision have export obligations in three categories of peanuts. Those categories are: Sound Mature Kernels (SMK), Sound Splits (SS), and Other Kernels (OK). In the case of Other Kernels the obligation may be satisfied by crushing or exporting. This amendment is intended to make it clear that the handler's obligation in each category is to be reduced by at least 4.5% except for those handlers not complying with quality standards.

*Sec. 602. Advanced deficiency repayment deadline for 1988 crops*

The bill would amend section 201(b)(4) of the Disaster Assistance Act of 1988 to delay the repayment of advance deficiency payments for the 1989 crops to July 31, 1990.

*Sec. 603. Planting of alternate crops on permitted acreage*

The bill would amend the Agricultural Act of 1949 to extend the authorization for farmers to plant alternate crops on permitted acres. Section 504(b)(2) of the 1949 Act would be amended as follows:

(1) by striking "and" at the end of subparagraph (D);

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following new subparagraph:

"(E) in the case of the 1990 crop year, acreage in an amount not to exceed 20 percent of the permitted acreage for a program crop, if—

"(i) the acreage considered to be planted is planted to canola, rapeseed, sunflower, safflower, flaxseed,

kenaf, crambe, guayule, milkweed, mung beans, mustard seed or meadowfoam;

"(ii) the producers on the farm plant for harvest to the program crop at least 50 percent of the permitted acreage for such crop; and

"(iii) payments are not received by producers under section 107(D)(C)(1)(C), 105C(c)(1)(B), 103A(c)(1)(B), or 101A(c)(1)(B), as the case may be.".

STAFF COST ESTIMATE

[In fiscal years and millions of dollars]

| Item | Cost | |
|---|---|---|
| | 1989 | 1990 |
| 1. Program crops: | | |
| 40 percent loss requirement | | |
| 65 percent payment up to 75 percent loss | | |
| 80 percent payment over 75 percent loss | | |
| Participants: | | |
| Wheat | 85 | 253 |
| Other | | 355 |
| Peanuts, sugar, etc | | 4 |
| 2. Advance disaster payments (included above) | | |
| 3. Nonparticipants, soybeans, and nonprogram crops: | | |
| 45 percent loss requirements | | |
| 65 percent payment up to 75 percent loss | | |
| 80 percent payment over 75 percent loss | | |
| Wheat | | 45 |
| Other | | 43 |
| Soybeans | | 124 |
| Other Nonprogram Crops | | 183 |
| 4. Drop damaged fruit provision | | (50) |
| 5. No double payments on replanted acreage | | (20) |
| 6. FCIC non-duplication: Same provision as last year | | (10) |
| 7. Payment limit: Same provision as last year | | (50) |
| 8. Deferment of 1988 Adv. Def. Payments: Defer refund of 1988 adv. def. until July 31, 1990 | | None |
| 9. Canola | | (10) |
| 10. Peanut shrinkage | | None |
| 11. Freeze damage to orchards | | 3 |
| 12. Disaster credit and forebearance | | |
| 13. Rural businesses | | |
| 14. Community water assistance | | |
| 15. Emer. Cons. Prog., deepening of wells | | |
| 16. Livestock feed assistance—on-farm stored grain | | |
| 17. Watershed assistance | | |
| Total | 85 | 870 |
| Baseline changes: (CCC, FCIC, ACIF), January to July | 300 | 870 |
| Net savings from baseline | 215 | |

## Regulatory impact Evaluation

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee made the following evaluation of the regulatory impact which would be incurred in carrying out the Committee bill.

The bill creates new authorities and programs. Under the bill, the Secretary of Agriculture is required to make disaster payments to producers of commodities who have been adversely affected by damaging weather in 1988 and 1989.

The bill would create some additional regulatory requirements, particularly with respect to the implementation of the disaster payment provisions in the bill.

The bill will result in some additional paperwork or record keeping requirements.

## ADDITIONAL VIEWS OF SENATORS PETE WILSON AND SLADE GORTON

We support the basic premise that all producers affected by drought, hail, excessive moisture, freeze or related conditions deserve disaster relief that is both compassionate and fiscally responsible. Today, members provided the Committee with two choices.

The majority proposal would make payments to all producers, regardless of the crop they grow or whether they participate in the government's farm program. This approach certainly appears to meet the test of compassion for it recognizes that a farmer, regardless of the crop he puts in the ground, deserves assistance should he suffer substantial losses in his production capability. But a bill that will not be signed into law cannot be considered compassionate because it will fail to result in any assistance actually being paid to the farmer.

The fact that this proposal exceeds the budget allowance by $85 million exposes it to the threat of a veto. Although the majority proposes that $85 million be spent in fiscal year 1989, the Department of Agriculture has made it clear that this cannot reasonably be accomplished. By relying on budget gimmickry, the majority proposal only seems to promise relief; it is more likely a mirage.

In contrast, the proposal offered by Senator Lugar meets the test of fiscal responsibility. By targeting assistance to program producers of wheat, feed grains, cotton and rice, as well as soybeans, the cost of this proposal would be limited to $875 million—a level the Administration will approve. We supported this relief package because it would clearly provide needed relief and is not subject to a veto threat.

This proposal would provide badly needed assistance to the farmers of our states who have been adversely affected by a variety of extreme weather conditions. In addition, this proposal would authorize payments to producers of non-program crops, such as tree fruits, berries and hay, which were also affected by uncommonly severe weather. Assistance to non-program producers could be provided by the Secretary of Agriculture should additional savings result from lower-than-anticipated program costs or through separate legislation. But there is a high possibility that no such relief would be provided, and that would be unfair.

Admittedly, we prefer a package that provides equitable relief to program and non-program crop producers and will become law. We will continue to work for a compromise that provides a reasonable level of assistance to producers of both program and non-program crops that more closely reflects the current budgetary restraints and thus can be signed by the President.

PETE WILSON.
SLADE GORTON.

## ADDITIONAL VIEWS OF SENATORS LUGAR, DOLE, HELMS, AND McCONNEL

We support efforts to provide disaster relief to farmers suffering from extreme weather conditions. However, we disagree with the specific approach taken along a party line 10–9 vote by the Senate Agriculture Committee for several reasons.

During the Committee's deliberations on this issue we presented a package that would have guaranteed all program crop participants and soybean growers disaster payments at last year's levels. Producer's with a 35% loss would receive a 65% payment rate as in 1988. We suggested further to mandate coverage of nonparticipants and nonprogram crops if funding was available through a CCC re-estimate in October or through the reconciliation process. If disaster occurs in spring-planted crop areas, which was the logic presented for covering crops beyond those with certain losses, the CCC will realize reduced outlays which can be used to make all producers whole under last year's payment formulas.

Our approach ensures program crop participants will not lose significant income on a per-farm basis and a cents per bushel or pound basis as they would under the Committee bill. At the same time, because we understood the concern that other farmers may have losses in the future, we wanted to mandate coverage to other producers in a responsible and budget neutral fashion, depending on the availability of funding or the willingness of the Committee to address known losses after they had occurred.

We feel that program crops are bearing the burden of funding disaster relief, and therefore are entitled to priority treatment given the extremely tight financial constraints that exist. In addition, program crop participants are required to undergo numerous requirements that nonparticipants and nonprogram crop producers are not faced with. These requirements include taking land out of production—which often represents a significant cost of production and a loss of income—complying with sodbuster and swampbuster provisions, meeting payment limit restrictions, person definitions and having restricted payment yields.

We are concerned that there was no effort by the majority to control the broad scope of the bill. While the majority bill may spend less than the House-passed bill, which mandates $1.36 billion in disaster assistance only to drastically reduce this assistance through prorating, it still provides blanket coverage to all crops, even those which may have an abundant harvest this year. There was no effort made at targeting assistance and using future savings to cover widespread and documented losses. As structured, the majority package is not fiscally responsible and provides a potential "black hole" for the final costs of disaster relief.

The majority package attempts to present a budgetarily sound image by trying to shift $85 million into fiscal year 1989. Although

this option was explored, the administration did not consider this a sound accounting technique given the narrow timeframe which producers would have to comply with. Congress should live within the available savings of $870 million estimated by OMB in the technical re-estimate. By covering even crops that will have record or near-record production, the majority package threatens the administration's efforts to meet the Gramm-Rudman-Hollings target of $100 to $110 billion.

The Committee was drawn into the debate over disaster legislation initially because of a significant loss to the winter wheat crop. In addition, cotton farmers were flooded in the South and savings from both the wheat and cotton program will help provide significant net CCC savings to help offset the cost of the disaster package. We felt winter wheat producers had a strong case for getting the same payment formula as other crops planted in 1988 since their drought was part of the same weather event. Since it was not possible to get enough votes for a winter wheat only package, the alternative offered by Senator Lugar presented a workable means to provide all program crops with last year's payment rate and provide additional money to fund other farmers' documented losses.

Our package would have given program nonparticipants equal treatment with nonprogram crops, in that funding would be mandated if savings were realized through a CCC re-estimate in October or through the reconciliation process. Nonparticipants willingly opt not to receive program benefits and are in essence nonprogram crop producers. To reduce payments to program participants to cover any conceivable loss seemed to us to be an exhorbitantly costly approach that would cost thousands of dollars to program crop participants. We have included several economic comparisons which show how much better program crop participants fare under the Lugar alternative. We hope future discussions will lead to a disaster bill that is truly fair and truly equitable to the Nation's farmers.

RICHARD G. LUGAR.
ROBERT DOLE.
JESSE HELMS.
MITCH MCCONNELL.

## CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

### AGRICULTURAL ACT OF 1949

* * * * * * *

### TITLE V—ACREAGE BASE AND PROGRAM YIELD SYSTEM FOR THE WHEAT, FEED GRAIN, UPLAND COTTON, AND RICE PROGRAMS

* * * * * * *

#### CROP ACREAGE BASES

SEC. 504. [1464] (a)(1) The Secretary shall provide for the establishment and maintenance of crop acreage bases for each program crop, including any program crop produced under an established practice of double cropping. The sum of the crop acreage bases for all program crops produced on any farm for any crop year shall not exceed the farm acreage base for such farm for such crop year, except to the extent that the excess is due to an established practice of double cropping.

(2) The term "double cropping" means a farming practice, as defined by the Secretary, which has been carried out on a farm in at least 3 of the 5 crop years immediately preceding the crop year for which the crop acreage base for the farm is established.

(b)(1)(A) Except as provided in subparagraph (B), the crop acreage base for a program crop for any farm for the 1986 and subsequent crop years shall be the number of acres that is equal to the average of the acreage planted and considered planted to such program crop for harvest on the farm in each of the five crop years preceding such crop year.

(B)(i) In the case of upland cotton and rice, except as provided in clause (ii), if no planted and considered planted acreage has been established for a farm for each of the five crop years preceding such crop year, the crop acreage base for such crop shall be equal to the average of the acreage planted and considered planted to such crop for harvest on the farm in each of the five crop years preceding such crop year, excluding all crop years in which planted and considered planted acreage was not established for the farm.

(ii) Any crop acreage base established in accordance with clause (i) shall not exceed a number of acres equal to the average of the acreage planted and considered planted to such crop for harvest on the farm in each of the two crop years preceding such crop year.

(2) The acreage considered planted to a program crop shall include—

(A) any reduced acreage, set-aside acreage, and diverted acreage on the farm;

(B) any acreage on the farm that producers were prevented from planting to such crop because of drought, flood, or other natural disaster, or other condition beyond the control of the producers;

(C) acreage in an amount equal to the difference between the permitted acreage for a program crop and the acreage planted to the crop, if the acreage considered to be planted is devoted to conservation uses or the production of commodities permitted under section 107D(c)(1)(K), 105C(c)(1)(I), 103A(c)(1)(G), or 101A(c)(1)(G), as the case may be;

(D) in the case of each of the 1986 through 1989 crop years, acreage in an amount equal to not to exceed 50 percent of the permitted acreage for a program crop for each of the 1986 and 1987 crop years, 35 percent of the permitted acreage for the 1988 crop year, and 20 percent of the permitted acreage for the 1989 crop year, if—

(i) the acreage considered to be planted is planted to a crop, other than a program crop, peanuts, soybeans, extra long staple cotton, or commodities specified in clause (C);

(ii) the producers on the farm plant for harvest to the program crop at least 50 percent of the permitted acreage for such crop; and

(iii) payments are not received by producers under 107D(c)(1)(C), 105C(c)(1)(B), 103A(c)(1)(B), or 101A(c)(1)(B), as the case may be; **[**and**]**

*(E) in the case of the 1990 crop year, acreage in an amount not to exceed 20 percent of the permitted acreage for a program crop, if—*

*(i) the acreage considered to be planted in planted to canola, rapeseed, sunflower, safflower, flaxseed, kenaf, crambe, guayule, milkweed, mung bean, mustard, or meadowfoam;*

*(ii) the procedures on the farm plant for harvest to the program crop at least 50 percent of the permitted acreage for such crop; and*

*(iii) payments are not received by producers under section 107D(c)(1)(C), 105C(c)(1)(B), 103A(c)(1)(B), or 101A(c)(1)(B), as the case may be; and*

**[**(E)**]** *(F)* any acreage on the farm which the Secretary determines is necessary to be included in establishing a fair and equitable crop acreage base.

(3) For the purpose of determining the crop acreage base for the 1986 and subsequent crop years for any farm, the country committee, in accordance with regulations prescribed by the Secretary, may construct a planting history for such crop if—

(A) planting records for such crop for any of the five crop years preceding such crop year are incomplete or unavailable; or

(B) during at least one but not more than four of the five crop years preceding such crop year, the program crop was not produced on the farm.

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## TITLE VI—EMERGENCY LIVESTOCK FEED ASSISTANCE ACT OF 1988

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### ASSISTANCE PROGRAMS

SEC. 606. (a) * * *

[(b) If assistance is made available through the furnishing of feed grain under paragraph (1) or (2) of subsection (a), the Secretary may provide for the furnishing of the feed grain through a dealer or manufacturer and the replacing of the feed grain so furnished from feed grain owned by the Commodity Credit Corporation.]

*(b) If assistance is made available through the furnishing of feed grain under paragraph (1) or (2) of subsection (a), the Secretary—*

*(1) may provide for the furnishing of the feed grain through a dealer or manufacturer and the replacing of the feed grain so furnished from feed grain owned by the Commodity Credit Corporation; or*

*(2) at the option of the livestock producer, shall provide for the furnishing of the feed grain through the use of feed grain stored on the farm of the producer that has been pledged as collateral for a price support loan made under this Act.*

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## DISASTER ASSISTANCE ACT OF 1988

## TITLE II—EMERGENCY CROP LOSS ASSISTANCE

### Subtitle A—Annual Crops

SEC. 201. PAYMENTS TO PROGRAM PARTICIPANTS FOR TARGET PRICE COMMODITIES.

(a) DISASTER PAYMENTS * * *

(b) ADVANCE DEFICIENCY PAYMENTS.—(1) This subsection shall apply only to producers on a farm who elected to participate in the production adjustment program established under the Agricultural Act of 1949 for the 1988 crop of wheat, feed grains, upland cotton, or rice.

(2)(A) Subject to paragraph (B), if because of drought, hail, excessive moisture, or related condition in 1988 the total quantity of the 1988 crop of the commodity that the producers are able to harvest on the farm is less than the result of multiplying the farm program payment yield established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage prevented from being planted (because of such natural disaster, as determined by the Secretary) for such crop (hereinafter referred to as the "qualifying amount"), the producers shall not be required to refund

any advance deficiency payment made to the producers for such crop under section 107C of the Agricultural Act of 1949 (7 U.S.C. 1445b–2) with respect to that portion of the deficiency in production that does not exceed 35 percent of the qualifying amount.

(B) Producers on a farm shall not be eligible for the waiver provided for under subparagraph (A), unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 207.

(3) The Secretary shall allow producers on a farm that elected, prior to the date of enactment of this Act, not to receive advance deficiency payments made available for the 1988 crop under section 107C of such Act, to elect (within 30 days after the date of enactment of this Act) whether to receive such advance deficiency payments.

(4) Effective only for the 1988 crops of wheat, feed grains, upland cotton, and rice, if the Secretary determines that any portion of the advance deficiency payment made to producers for the crop under section 107C of such Act must be refunded, such refund shall not be required prior to [July 31, 1989] *July 31, 1990,* for that portion of the crop for which a disaster payment is made under subsection (a).

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## TITLE IV—WATER-RELATED ASSISTANCE

### Subtitle A—Water Management for Rural Areas

SEC. 401. * * *

**SEC. 402. DISASTER ASSISTANCE FOR WATERSHED PROTECTION ACTIVITIES.**

*(a) IN GENERAL.—The Secretary of Agriculture may provide disaster relief assistance in accordance with this section to repair damage caused by storms occurring in 1988 or 1989 to watersheds located in any county in any State, to the extent that fund authorized by this section remain available.*

*(b) FORM OF ASSISTANCE.—The assistance authorized by this section—*

*(1) includes both financial and technical assistance; and*

*(2) shall be provided in a manner consistent with similar assistance authorized under section 403 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203).*

*(c) USE OF COMMODITY CREDIT CORPORATION.—The Secretary may use the facilities, services, authorities, and funds of the Commodity Credit Corporation to carry out this section.*

*(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $25,000,000 for fiscal year 1990.*

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CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

TITLE III—AGRICULTURAL CREDIT

Subtitle A—Real Estate Loans

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*SEC. 306A. EMERGENCY COMMUNITY WATER ASSISTANCE GRANT PROGRAM.*

*(a) IN GENERAL.—The Secretary shall provide grants in accordance with this section to assist the residents of rural areas and small communities to secure adequate quantities of safe water—*

*(1) after a significant decline in the quantity or quality of water available from the water supplies of such rural areas and small communities; or*

*(2) when repairs, partial replacement, or significant maintenance efforts on established water systems would remedy—*

*(A) an acute shortage of quality water; or*

*(B) a significant decline in the quantity or quality of water that is available.*

*(b) PRIORITY.—In carrying out subsection (a), the Secretary shall—*

*(1) give priority to projects described in subsection (a)(1); and*

*(2) provide at least 70 percent of all such grants to such projects.*

*(c) ELIGIBILITY.—To be eligible to obtain a grant under this section, an applicant shall—*

*(1) be a public or private nonprofit entity; and*

*(2) in the case of a grant made under subsection (a)(1), demonstrate to the Secretary that the decline referred to in such subsection occurrred within 2 years of the date the application was filed for such grant.*

*(d) USES.—*

*(1) IN GENERAL.—Grants made under this section may be used for waterline extensions from existing systems, laying of new waterlines, repairs, significant maintenance, digging of new wells, equipment replacement, hook and tap fees, and any other appropriate purpose associated with developing sources of, or treating, storing, or distributing water, and to assist communities in complying with the requirements of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) or the Safe Drinking Water Act (42 U.S.C. 300f et seq.).*

*(2) JOINT PROPOSALS.—Nothing in this section shall preclude rural communities from submitting joint proposals for emergency water assistance, subject to the restrictions contained in subsection (e). Such restrictions should be considered in the aggregate, depending on the number of communities involved.*

*(e) RESTRICTIONS.—*

*(1) MAXIMUM POPULATION AND INCOME.—No grant provided under this section shall be used to assist any rural area or community that—*

*(A) includes any area in any city or town with a population in excess of 5,000 inhabitants according to the most recent decennial census of the United States; or*

*(B) has a median household income in excess of the State nonmetropolitan median household income according to the most recent decennial census of the United States.*

*(2) SET-ASIDE FOR SMALLER COMMUNITIES.—Not less than 75 percent of the funds allocated under this section shall be allocated to rural communities with populations that do not exceed 3,000 inhabitants.*

*(f) MAXIMUM GRANTS.—Grants made under this section may not exceed—*

*(1) in the case of each grant made under subsection (a)(1), $500,000; and*

*(2) in the case of each grant made under subsection (a)(2), $75,000.*

*(g) FULL FUNDING.—Subject to subsection (e), grants under this section shall be made in an amount equal to 100 percent of the projects conducted under this section.*

*(h) APPLICATION.—*

*(1) NATIONALLY COMPETITIVE APPLICATION PROCESS.—The secretary shall develop a nationally competitive application process to award grants under this section. The process shall include criteria for evaluating applications, including population, median household income, and the severity of the decline in quantity or quality of water.*

*(2) TIMING.—The Secretary shall make every effort to review and act on applications within 60 days of the date that such applications are submitted.*

*(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $35,000,000 for fiscal year 1990, and $10,000,000 for fiscal year 1991, such sums to remain authorized until fully appropriated.*

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AGRICULTURAL ADJUSTMENT ACT OF 1938

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SEC. 359. MARKETING PENALTIES

(a) * * *

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(p)(1) Except as provided in paragraph (2), the Secretary shall require that the handling and disposal of additional peanuts be supervised by agents of the Secretary or by area marketing associations designated pursuant to section 1445c–2(3)(A) of this title.

(2)(A) Supervision of the handling and disposal of additional peanuts by a handler shall not be required under paragraph (1) if the handler agrees in writing, prior to any handling or disposal of such peanuts, to comply with regulations that the Secretary shall issue.

(B) The regulations issued by the Secretary under the subparagraph (A) shall include, but need not be limited to, the following provisions:

(i) Handlers of shelled or milled peanuts may export peanuts classified by type in all of the following quantities [(less such

reasonable allowance for shrinkage as the Secretary may prescribe)]:

(I) Sound split kernel peanuts in an amount equal to twice the poundage of such peanuts purchased by the handler as additional peanuts.

(II) Sound mature kernel peanuts in an amount equal to the poundage of such peanuts purchased by the handler as additional peanuts less the amount of sound split kernel peanuts purchased by the handler as additional peanuts.

(III) The remaining quantity of total kernel content of peanuts purchased by the handler as additional peanuts and not crushed domestically.

(ii) Handlers shall ensure that any additional peanuts exported are evidenced by onboard bills of lading, other appropriate documentation as may be required by the Secretary, or both.

(iii) If a handler suffers a loss of peanuts as a result of fire, flood, or any other condition beyond the control of the handler, the portion of such loss allocated to contracted additional peanuts shall not be greater than the portion of the handler's total peanut purchases for the year attributable to contracted additional peanuts purchased for export by the handler during such year.

*(iv)(I) The obligation of a handler to export peanuts in quantities described in this subparagraph shall be reduced by a shrinkage allowance, to be determined by the Secretary, to reflect actual dollar value shrinkage experienced by handlers in commercial operations, except that such allowance shall not be less than 4½ percent, except as provided in subclause (II).*

*(II) The Secretary may provide a lower shrinkage allowance for a handler who fails to comply with restrictions on the use of peanuts, as may be specified by the Commodity Credit Corporation, to take into account common industry practices.*

(3) A handler shall submit to the Secretary adequate financial guarantees, as well as evidence of adequate facilities and assets, to ensure the handler's compliance with the obligation to export peanuts.

(4) Quota and additional peanuts of like type and segregation or quality may, under regulations issued by the Secretary, be commingled and exchanged on a dollar value basis to facilitate warehousing, handling, and marketing.

(5)(A) Except as provided in subparagraph (B), the failure by a handler to comply with regulations issued by the Secretary governing the disposition and handling of additional peanuts shall subject the handler to a penalty at a rate equal to 140 percent of the loan level for quota peanuts on the quantity of peanuts involved in the violations.

(B) A handler shall not be subject to a penalty for failure to export additional peanuts if such peanuts were not delivered to the handler.

(6) If any additional peanuts exported by a handler are reentered into the United States in commercial quantities as determined by the Secretary, the importer thereof shall be subject to a penalty at

a rate equal to 140 percent of the loan level for quota peanuts on the quantity of peanuts reentered.

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AGRICULTURAL CREDIT ACT OF 1978

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**§ 402. Payments to agricultural producers for carrying out water conservation or water enhancing measures; criteria**

The Secretary of Agriculture is authorized to make payments to agricultural producers who carry out emergency water conservation or water enhancing measures *(including measures carried out to assist confined livestock)* during periods of severe drought as determined by the Secretary.

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